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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/635,948	08/07/2003	Gregory Don Moore	6108.73	1225
27683	7590	01/25/2005	EXAMINER	
HAYNES AND BOONE, LLP 901 MAIN STREET, SUITE 3100 DALLAS, TX 75202			OMGBA, ESSAMA	
			ART UNIT	PAPER NUMBER
			3726	

DATE MAILED: 01/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/635,948

Applicant(s)

MOORE ET AL.

Examiner

Essama Omgba

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 7, 11, 16 and 17 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>8/7/03</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1-17 are objected to because of the following informalities: in claim 1, lines 1 and 2, --a-- should be inserted before "rail"; in claim 3, line 1, --a-- should be inserted before "whole"; in claim 12, lines 1 and 2, --a-- should be inserted before "rail"; and in claim 16, lines 1 and 2, --a-- should be inserted before "recycled" and "rail" respectively. Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

3. Claims 1-6, 8-10 and 12-15 are rejected under 35 U.S.C. 102(a) as being anticipated by Applicant's Admitted Prior Art (AAPA).

With regards to claims 1, 3-6, 8, 12 and 13, Applicant, at pages 1, 2 and 5 of the specification to be known as AAPA, discloses a method of recycling a whole rail comprising a lower portion, an upper portion and a web portion, wherein the rail is heated to a plastic state and slit in a plurality of pieces and the plurality of pieces are deformed to a generally uniform shape. Applicant should note that any of the plurality of pieces could be called a first piece or a second piece. Applicant should note that the rail

Art Unit: 3726

of AAPA is considered slit across the web section since it is slit to separate the web from the lower and upper portions.

For claim 2, see paragraphs 24 and 25 of the specification where it is admitted that reduction passes are conventional and are associated with slitting knives.

For claim 9, the lower portion of the rail of AAPA could be called a flange and the upper portion a head.

For claim 10, reduction passes to deform the rail pieces are conventional in the art, see paragraph 24 of the specification.

For claim 14, Applicant should note that pinch rolls are conventional reduction pass components as admitted in paragraph 24 of the specification.

For claim 15, see paragraph 5 of the specification wherein it is disclosed that each piece the rail of AAPA is subjected to rolling operations.

Allowable Subject Matter

4. Claims 7 and 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 16 and 17 would be allowable if rewritten or amended to overcome the objections set forth in this Office action.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Essama Omgba whose telephone number is (571) 272-4532. The examiner can normally be reached on M-F (10-7:30) First Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Essama Omgba
Primary Examiner
Art Unit 3726